

## § 801.11

## 15 CFR Ch. VIII (1–1–12 Edition)

### **§ 801.11 Rules and regulations for the BE-140, Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons.**

(a) The BE-140, Benchmark Survey of Insurance Transactions by U.S. Insurance Companies with Foreign Persons, will be conducted covering calendar year 2008 and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in § 801.1 through § 801.9(a) are applicable to this survey. More detailed instructions and descriptions of the individual types of transactions covered are given on the report form itself. The BE-140 consists of three parts and two schedules. Part 1 requests information on whom to consult concerning questions about the report and the certification section. Part 2 requests information about the reporting insurance company. Part 3 requests information needed to determine whether a report is required, the types of transactions that would be reported, and which schedules apply. Each of the two schedules covers the types of insurance services to be reported and the ownership relationship between the U.S. insurance company and foreign transactor and is to be completed only if the U.S. insurance company has transactions of the types covered by the particular schedule.

(b) *Who must report*—(1) *Mandatory reporting.* A BE-140 report is required from each U.S. insurance company with respect to the transactions listed below, if any of the eight items was greater than \$2 million or less than negative \$2 million for the calendar year covered by the survey on an accrual basis:

- (i) Premiums earned, and
- (ii) Losses, on reinsurance assumed;
- (iii) Premiums incurred, and
- (iv) Losses, on reinsurance ceded;
- (v) Premiums earned, and
- (vi) Losses, on primary insurance sold;
- (vii) Sales of, and
- (viii) Purchases of, auxiliary insurance services.

U.S. insurance companies that file pursuant to this mandatory reporting requirement must complete parts 1 through 3 of Form BE-140 and all appli-

cable schedules. The total amounts of transactions applicable to a particular schedule are to be entered in the appropriate column(s) and these amounts must be distributed among the countries involved in the transactions.

(2) *Voluntary reporting.* If, during the calendar year covered, the U.S. insurance company's transactions do not exceed the exemption level for any of the types of transactions covered by the survey, the U.S. person is requested to provide an estimate of the total for each type of transaction. Submission of this information is voluntary. The estimates may be judgmental, that is, based on recall, without conducting a detailed records search.

(3) Any U.S. insurance company that receives the BE-140 survey form from BEA, but is not reporting data in either the mandatory or voluntary section of the form, must complete Parts 1 through 3 of the survey. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act by eliminating unnecessary follow-up contact.

(c) *Covered types of insurance transactions.* The BE-140 survey is intended to collect information on U.S. international insurance transactions. The types of insurance transactions covered are: Reinsurance assumed from or ceded to insurance companies resident abroad, primary insurance sold to foreign persons, and receipts and payments of auxiliary insurance services.

[74 FR 41036, Aug. 14, 2009. Redesignated at 75 FR 35290, June 22, 2010]

### **§ 801.12 Rules and regulations for the BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons.**

(a) The BE-180, Benchmark Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, will be conducted beginning with fiscal year 2009 and every fifth year thereafter. More detailed instructions are given on the report forms and instructions.

(b) *Who must report*—(1) *Mandatory reporting.* A report is required from each U.S. person that is a financial services provider or intermediary, or whose

consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and that had transactions (either sales or purchases) directly with foreign persons in all financial services combined in excess of \$3,000,000 during its fiscal year covered by the survey on an accrual basis. The \$3,000,000 threshold should be applied to financial services transactions with foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the \$3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgment of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters that file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country and by relationship to the foreign transactor (foreign affiliate, foreign parent group, or unaffiliated).

(2) *Voluntary reporting.* If, during the fiscal year covered, sales or purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are \$3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. However, submission of this information is voluntary. Because the \$3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply to sales, to purchases, or to both.

(3) *Exemption claims.* Entities that receive the BE-180 survey but are not subject to the mandatory reporting requirements and choose not to report data voluntarily must file an exemp-

tion claim by completing pages one through five of the BE-180 survey and returning them to BEA.

(c) *BE-180 definition of financial services provider.* The definition of financial services provider used for this survey is identical to the definition of the term as used in the North American Industry Classification System, United States, 2007, Sector 52-Finance and Insurance, and holding companies that own or influence, and are principally engaged in making management decisions for these firms (part of Sector 55-Management of Companies and Enterprises). For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, savings institutions, credit unions, and other depository credit intermediation); non-depository credit intermediation (including credit card issuing, sales financing, and other non-depository credit intermediation); activities related to credit intermediation (including mortgage and nonmortgage loan brokers, financial transactions processing, reserve, and clearinghouse activities, and other activities related to credit intermediation); securities and commodity contracts intermediation and brokerage (including investment banking and securities dealing, securities brokerage, commodity contracts and dealing, and commodity contracts brokerage); securities and commodity exchanges; other financial investment activities (including miscellaneous intermediation, portfolio management, investment advice, and all other financial investment activities); insurance carriers; insurance agencies, brokerages, and other insurance related activities; insurance and employee benefit funds (including pension funds, health and welfare funds, and other insurance funds); other investment pools and funds (including open-end investment funds, trusts, estates, and agency accounts, real estate investment trusts, and other financial vehicles); and holding companies that own, or influence the management decisions of, firms principally engaged in the aforementioned activities.

(d) *Covered types of services.* The BE-180 survey covers the following types of financial services transactions (sales or purchases) between U.S. financial companies and foreign persons: Brokerage services related to equity transactions; other brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services.

[75 FR 35290, June 22, 2010]

## PART 806—DIRECT INVESTMENT SURVEYS

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- 806.18 OMB control numbers assigned to the Paperwork Reduction Act.

AUTHORITY: 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173); E.O. 12518 (3 CFR, 1985 Comp., p. 348).

SOURCE: 42 FR 64315, Dec. 22, 1977, unless otherwise noted.

### § 806.1 Purpose.

The purpose of this part is to set forth the rules and regulations necessary to carry out the data collection program and analyses concerning direct investment as required by, or provided for in, the International Investment Survey Act of 1976 (Pub. L. 94–472,

90 Stat. 2059, 22 U.S.C. 3101 to 3108), hereinafter “the Act”. The overall purpose of the Act is to provide comprehensive and reliable information pertaining to international investment, including direct investment, and to do so with a minimum of burden on respondents and with no unnecessary duplication of effort.

### § 806.2 Recordkeeping requirements.

In accordance with section 5(b)(1) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall maintain any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential for carrying out the surveys and studies provided for by the Act.

### § 806.3 Reporting requirements.

(a) In accordance with section 5 (b)(2) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act.

(b) Such reports may be required from among others, U.S. persons which have direct investment abroad, U.S. persons in which foreign persons have direct investment, U.S. intermediaries, and U.S. persons which assist or intervene in the purchase or sale of direct investment interests, such as real estate brokers and brokerage houses acting as managers of tender offers.

### § 806.4 Response required.

Reports, as specified below, are required from all persons coming within the reporting requirements, whether or not they are contacted by BEA. In addition, any person BEA contacts, either by sending them report forms or by written inquiry concerning the person’s being subject to the reporting requirements of a survey conducted pursuant to this part must respond in writing. The response must be made by filing the properly completed report form, or by submitting in writing, or within 30 days of being contacted, a valid exemption claim (including the